IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA

RFA No. 72/2002 & 302/ 2003

Reserved on : 3.8.2007

Date of Decision : 24.8.2007

RFA No.72 of 2002.

Puran Chand and others ….Appellants.

Versus:

L.A.C. and another …Respondents.

RFA No.302 of 2003.

State of H.P. and another ….Appellants.

Versus:

Puran Chand and others …Respondents.

Coram:

The Hon'ble Mr.Justice Sanjay Karol, Judge.

Whether approved for reporting?[1]

RFA No.72 of 2002.
For the appellants: Mr.H.C.Sharma, Advocate.

For the respondents: Mr. C.B.Singh, Dy.Advocate General

RFA No.302 of 2003.
For the appellants: Mr C.B.Singh, Dy.Advocate General

For the respondents: Mr. H.C.Sharma, Advocate.

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[1] **Whether reporters of Local Papers may be allowed to see the judgment?**

Sanjay Karol, J.

For the sake of convenience the State of H.P. is referred to as the appellants and Puran Chand and others, land owners, are referred to as the respondents.

Appellants, Puran Chand and others, LRs of Shri Murli, in RFA No. 72 of 2002 and the appellants State of H.P. & another in RFA No. 302 of 2003 have assailed the award dated 3rd August, 2001, passed by the Additional District Judge, Shimla, in land reference No.15-S/4 of 1996, titled as Shri Murli vs. LAC and another, whereby compensation awarded by the Collector, for acquisition of the claimants'/landowners' land has been enhanced from Rs.1,777.78 paise per biswa to Rs.9,500/- per biswa (1,90,000/- per bigha).

Respondents'/Land owners' land comprising in Khasra No. 284/1, measuring 0-07 biswas in village Kaljar, District Shimla, H.P. was acquired for public purpose, namely, construction of Matiana Mauri Road. The aforesaid land was acquired vide notification dated 22.12.1990 issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the "Act") and also the award No. SML-40/86 dated 20.1.1993, whereby the compensation payable to the land owners for the land classified as Bukhal Awal was assessed by the Collector at Rs.1,777.78 paise per biswa (Rs. 35,555.60 paise per bigha).

Aggrieved by the same the respondents preferred a reference petition under the Act.

In order to prove their case, the respondents/land owners got examined Shri Puran Chand PW-1, Shri Gurdas Ram PW-2, Bansi Lal PW-3, Shri Duni Chand PW-4 and got exhibited sale deeds Ext PW-2/A and Ext.PW-2/B. Ext.PW-2/A is a sale deed pertaining to three biswas of land sold for a total consideration of Rs.9,000/- and Ext. PW-2/B sale deed, pertains to land which is adjoining to the acquired land, sold for a consideration of Rs.9,500/-.

Land owners have also relied upon award Ext.PW 4/A passed by the District Judge in land reference case pertaining to the very same Mauza Kaljar where the acquired land is situate, whereby the compensation payable to the land owners for the acquired land has been assessed at Rs.10,800/- per biswa. But the same is under challenge and has not attained finality. Reliance has also been placed on the award passed in reference petition, titled as Devi Ram vs. State of H.P dated 6.11.2000, whereby the compensation award, for acquisition of land in Chak Kaljar, has been awarded at Rs.1,90,000/- per bigha i.e. Rs.9,500/- per biswa.

It has come on record through the statement of the aforesaid witnesses that the land acquired, for the construction of Matiana-Mauri Road, is in close proximity with the Hindustan Tibet Road. Their land was used for agricultural purposes from which the claimants were having regular source of income. It has also come on record that in the close proximity there is senior secondary school, primary school, hospital, veterinary hospital and office of the SDO (IPH).

The Court below relying upon the sale deed Ext.PW-2/B has rightly come to the conclusion that the land owners are entitled for

enhanced compensation at the rate of Rs.9,500/- per biswa for the acquired land in terms of the present notification. The same is based on cogent material proved on record.

In my view the reasoning and the decision of the Court below based on the cogent material proved on record, for determining the compensation due and payable to the land owners as fair market value of their acquired land is correct and needs to be awarded as such to them.

It is clarified that the interest on the enhanced amount of compensation shall be payable in terms of the provisions of Section 28 of the Act from the date of the notification under Section 4 of the Act. The award is accordingly modified. Needless to say that the claimants would be entitled to all statutory benefits on the enhanced compensation amount in accordance with law.

The appeals are accordingly disposed of.

August 24th, 2007 **(Sanjay Karol),**
™ **Judge**